

REMARKS

Claims 1-14 are pending in this application.

Claims 1-5 and 8-12 have been allowed.

Claims 6, 7, 13 and 14 stand rejected under 35 U.S.C. § 103 as being unpatentable over McCall (U.S. Patent No. 4,267,838). This rejection is respectfully traversed for the reasons that follow.

First, the Examiner has misconstrued the text abridging pages 2 and 3 of the instant application. The relevant text states:

"In accordance with well-known acupuncture standards, several acupuncture points are simultaneously stimulated to achieve the therapeutic goal... ten acupuncture points are stimulated: ...top side of lower arm (SJ.5 Waiguan), (LI.4 Hegu), side of lower arm (SI.6 Yanglao) ..." (emphasis added) None of the ten points mentioned is the P6 (Neiguan) acupuncture point. The text cited by the Examiner fails to suggest that acupuncture in a single location, more particularly the P6 acupuncture point, is an effective method of relieving dizziness or vertigo.

Second, the Examiner has misconstrued the teaching of McCall U.S. 4,267,838. McCall teaches applying both pressure and electrical pulses at one or more acupuncture points 18 in the ear or other unspecified points on the body. (Column 2, lines 10-17) McCall also teaches that an electrical grounding pad 40 must be taped to another location of a person's body in order for the electrical pulses to have any effect. (Column 2, lines 47-52) McCall does not teach methods of relieving dizziness or vertigo "by stimulating the P6 acupuncture point of the patient with electrical energy", as recited in amended claims 6 and 13. McCall also fails to teach a method of relieving dizziness (claim 7) or vertigo (claim 14) in a patient "comprising: **Insert language from amended claim 7.**" McCall fails to clearly and unambiguously show or suggest applying the device to the wrist over the P6 acupuncture point. A reference's expansive predictions about its own

significance should not always be taken at face value. In re. Bell, 991 F.2d 781, 26 U.S.P.Q.2d 1529 (Fed. Cir. 1993). Even if one could fairly divine such a suggestion from McCall, the McCall device is a combination or dual treatment electrical impulse acupressure device and rather than a single purpose electro-acupuncture device. There is no suggestion in the reference or the other prior art of record that using a single purpose device would achieve the desired result of relieving dizziness or vertigo. Furthermore, it cuts against the primary teaching of McCall to use a single purpose device.

Therefore the invention, as defined in amended claims 6, 7, 13 and 14, is not shown or suggested by the prior art of record. Applicants respectfully submit that claims 6, 7, 13 and 14 are allowable.

No fees or requests for extension of time are believed to be due in connection with this paper; however, the Commissioner is authorized to consider this a request for any necessary extension of time and to charge our Deposit Account 01-0025 for any additional fees (or credit any over payments) that may be required under 37 C.F.R. §§ 1.16 and 1.17 in association with this communication for which full payment has not been tendered.

Applicants respectfully request that this application be favorably reconsidered and that a timely Notice of Allowance be issued.

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